

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

THE ESTATE OF ERIC A.) CIVIL NO. CV04 00428 DAE-LEK
 POWELL, THROUGH PERSONAL)
 REPRESENTATIVE MARY K.)
 POWELL; THE ESTATE OF)
 JAMES D. LAUGHLIN, THROUGH)
 PERSONAL REPRESENTATIVE)
 RAGINAE C. LAUGHLIN; MARY)
 K. POWELL, INDIVIDUALLY;)
 RAGINAE C. LAUGHLIN,)
 INDIVIDUALLY; CHLOE)
 LAUGHLIN, A MINOR, THROUGH)
 HER NEXT FRIEND, RAGINAE)
 C. LAUGHLIN,)
 Plaintiffs,)
 vs.)
 CITY AND COUNTY OF)
 HONOLULU,)
 Defendant.)

DEPOSITION OF MARY K. POWELL

Taken on behalf of Defendant at the Offices of
 Corporation Counsel, City and County of Honolulu,
 Honolulu Hale (City Hall), 530 South King Street,
 Room 110, Honolulu, Hawaii, commencing at 9:30
 a.m., on Thursday, April 28, 2005, pursuant to
 Federal Rules of Civil Procedure.

BEFORE: PHYLLIS K. KUSHINER, CSR NO. 147
 Notary Public, State of Hawaii

EXHIBIT

"9"

POWELL, etc., et al., vs. CITY AND COUNTY OF HONOLULU

MARY K. POWELL
April 28, 2005

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1 about where the pole line was and where the buoys
2 were. We were -- Jim and I were showing Eric,
3 pointing. I don't remember anything else
4 conversation-wise over lunch.
5 Q. Did the person at the information desk tell
6 you where to swim?
7 A. What do you mean? I'm sorry.
8 Q. Well, you mentioned that somebody at the
9 information desk was I guess explaining to the
10 three of you how to get beyond the reef; is that
11 correct?
12 A. No, actually it was just Jim and I. We
13 were on our way up to get sandwiches, and we
14 stopped there. And we had asked "How do you get
15 out past this coral reef," and she had pointed to
16 where the buoys were and said that that is a pull
17 line. And that was it. We walked up to get the
18 sandwiches because they are at the top there, and
19 we actually looked for the buoys halfway up.
20 Q. Where was Eric when you and Jim were
21 talking to the information desk?
22 A. Laying out on the towel.
23 Q. And other than this person in the
24 information desk, did you talk to any other
25 personnel at Hanauma Bay --

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1 what you have mentioned?
2 A. She seemed young.
3 Q. And did she say anything else?
4 A. No.
5 Q. And did you say anything to her after she I
6 guess explained the pull line in?
7 A. No.
8 Q. Have you ever heard the term Witches' Brew?
9 A. No.
10 MR. MATTOCH: I'm sorry. Counsel, did
11 you say "Have you ever heard the term"?
12 MR. MAYESHIRO: Yes.
13 MR. MATTOCH: Or are you saying "Had you
14 ever heard the term"?
15 MR. MAYESHIRO: Have.
16 THE WITNESS: Have? Well, I know what
17 it is now, yes.
18 Q. (By Mr. Mayeshiro) What is your
19 understanding of what Witches' Brew refers to?
20 A. An area in Hanauma Bay.
21 Q. And is that area significant in your mind
22 for any reason?
23 A. Prior to the events?
24 Q. Yes.
25 A. I had -- prior, no.

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1 A. No.
2 Q. -- other than the people that we have
3 mentioned so far?
4 A. No.
5 Q. The person at the information desk, can you
6 tell me what that person looked like?
7 A. She had looked to be -- she was Caucasian.
8 She looked to be 18 or 19. She, her hair was in a
9 ponytail.
10 Q. Do you remember what color her hair was?
11 A. I think it was sandy brown.
12 Q. And do you recall the length?
13 A. It was in a ponytail so somewhat long, I
14 guess.
15 Q. Height?
16 A. Probably five five.
17 Q. Build?
18 A. Medium.
19 Q. Do you know if the person had on any
20 particular clothing?
21 A. Not that I recall.
22 Q. Glasses?
23 A. No.
24 Q. Is there anything that you can think about
25 this woman that stands out in your mind other than

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1 Q. But now?
2 A. Today?
3 Q. Yes.
4 A. Well, the name in itself doesn't confer --
5 I'm sorry. Can you start over on that question?
6 Q. Sure. What significance, if any -- does
7 Witches' Brew, either the name or the location,
8 have any significance in your mind?
9 MR. MATTOCH: As she sits here today?
10 MR. MAYESHIRO: As she sits here today.
11 THE WITNESS: It is where my husband and
12 brother died.
13 Q. (By Mr. Mayeshiro) And prior to July 19,
14 2002, you had not heard this term or location
15 before?
16 A. No, I had not.
17 Q. When did you first hear of this location?
18 A. After they died.
19 Q. Do you know approximately how long after?
20 A. In the newspaper, I think, maybe. I can't
21 recall exactly when after I heard that term.
22 Q. When you say newspaper, do you mean the
23 newspaper here in Hawaii?
24 A. Yes.
25 Q. How long after July 19th did you stay in